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New Hampshire Code of Administrative Rules
Env-Ws 389

PART Env-Ws 389 GROUNDWATER SOURCES OF BOTTLED WATER

Env-Ws 389.01 Purpose. The purpose of these rules is to establish procedures and standards for the selection of new groundwater sources and for routine monitoring of new and existing groundwater sources of bottled water.

Source. #6973, eff 4-5-99

Env-Ws 389.02 Applicability. The sampling requirements found in Env-Ws 389.22 shall apply to new and existing sources of bottled water. All other requirements contained in this rule shall apply only to new sources of bottled water.

Source. #6973, eff 4-5-99

Env-Ws 389.03 Definitions.

(a) "Artesian water" means "artesian water" as defined in 21 CFR 165, 11-13-95 edition, namely "the name of water from a well tapping a confined aquifer in which the water level stands at some height above the top of the aquifer is "artesian water" or "artesian well water."

(b) "Borehole" means a hole dug, drilled, or bored into the earth.

(c) "Bottled drinking water" means "bottled drinking water" as defined in He-P 2301.01, namely "water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water."

(d) "Community water system" means "community water system" as defined in RSA 485:1-a, I, namely "a public water system which services at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents."

(e) "Conceptual hydrogeologic model" means a working hypothesis describing geology, aquifer hydraulics, boundary conditions, recharge patterns, and surrounding water resources in the horizonal and vertical planes that incorporates available field evidence and reliable, conservative assumptions for the study area.

(f) "Cone of depression" means a depression in the potentiometric surface of a body of groundwater that has the general shape of an inverted cone and develops around a well from which water is being withdrawn.

(g) "Confined aquifer" means a water saturated geologic unit within which groundwater is under pressure significantly greater than that of the atmosphere, having as an upper surface the bottom of an impermeable bed or a bed of distinctly lower permeability than the aquifer.

(h) "Contamination" means the degradation of natural water quality as a result of human activities.

(i) "Department" means the department of environmental services.

(j) "Groundwater" means "groundwater" as defined in RSA 485-C:2, VIII namely, "subsurface water that occurs beneath the water table in soil and geologic formations."

(k) "Hydrogeology" means the study and reporting of the occurrence, movement, and chemical nature of surface water and groundwater in relation to its geologic environment and water supply wells.

(l) "Known contamination source" means a location from which contaminants are known to emanate and cause the underlying groundwater to be of unacceptable quality.

(m) "Natural orifice" means an orifice occurring naturally at the land surface, without any alteration of the land surface.

(n) "New source" means a wellhead sited after the effective date of these rules or a source sited before the effective date of these rules that has an increase in the approved permitted production volume.

(o) "Non-transient, non-community water system" means a "non-transient, non-community water system" as defined in RSA 485:1-a, XI, namely "a system which is not a community water system and which serves the same 25 people or more over 6 months per year."

(p) "Permitted production volume" means the maximum volume of groundwater allowed by the department to be withdrawn or pumped from a groundwater source of bottled drinking water in any 24 hour period. It is the volume used to define the source water protection area.

(q) "Potential contamination source" means land uses that pose a risk of introducing regulated substances into the environment in such quantities as to degrade the natural groundwater quality. The term includes those sources listed in RSA 485-C:7, II.

(r) "Potentiometric surface" means the surface that represents the level to which water rises when exposed to atmospheric pressure.

(s) "Pumping test production rate" means the production rate that is maintained throughout an evaluation program which is used to calculate the permitted production volume.

(t) "Regulated contaminant" means "regulated contaminant" as defined in RSA 485-C:2, XIII namely, "any physical, chemical, biological, radiological substance or other matter, other than naturally occurring substances at naturally occurring levels, in water which adversely affects human health or the environment."

(u) "Secondary standard" means the secondary maximum contaminant levels established primarily for aesthetic qualities of drinking water relating to the public acceptance of the water in accordance with Env-Ws 310-319.

(v) "Spring water" means "spring water" as defined in 21 CFR 165, 11-13-95 edition, namely, "the name of water derived from an underground formation from which water flows naturally to the surface of the earth."

(w) "Stratum" means a geologic formation or formations, or a discontinuity in or between geologic formations, which may in some cases serve as a source of water or as a pathway for groundwater to reach the surface.

(x) "Surface water" means "surface waters of the state" as defined in RSA 485-A:2, XIV namely

"streams, lakes, ponds and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial."

(y) "Well" means "well" as defined in RSA 485-C:2, XVII, namely "a hole or shaft sunk into the earth to observe, sample, or withdraw groundwater."

(z) "Well water" means water derived from a groundwater source that is neither artesian water nor spring water.

(aa) "Wellhead" means the conveyance through which, and location where, the groundwater source of bottled drinking water reaches the land surface such as the well casing, spring collection box, or the natural orifice of a spring.

(bb) "Wellhead protection area" means the area surrounding a wellhead through which water is likely to move toward and reach the wellhead.

(cc) "Wetland" means "wetland" as defined by Wt 101.87 namely, "an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

Source. #6973, eff 4-5-99

Env-Ws 389.04 Requirements for Approval.

(a) Prior to the use of a new groundwater source for bottled water, the applicant shall:

(1) Provide a description of the source location that demonstrates that the source meets surface water setbacks in accordance with Env-Ws 389.05;

(2) Provide a description of the sanitary protective area that demonstrates the land is under the control of the supplier of the water and shall be maintained in a natural state in accordance with Env-Ws 389.06;

(3) Develop a conceptual hydrogeologic model of the wellhead protection area in accordance with Env-Ws 389.07;

(4) Complete a preliminary estimate of the wellhead protection area in accordance with Env-Ws 389.08;

(5) Complete a preliminary contamination source and water withdrawal inventory in accordance with Env-Ws 389.09;

(6) If desired, request a pre-test conference with department staff in accordance with Env-Ws 389.10;

(7) Complete a source evaluation program in accordance with Env-Ws 389.11;

(8) Establish the permitted production volume in accordance with Env-Ws 389.12;

(9) Prepare a source classification statement in accordance with Env-Ws 389.14;

(10) Refine the wellhead protection area in accordance with Env-Ws 389.15;

(11) Update and revise the contamination source and water withdrawal inventory in accordance with Env-Ws 389.16;

(12) Establish a contamination control program for known contamination sources within the wellhead protection area in accordance with Env-Ws 389.17;

(13) Submit a report to the department in accordance with Env-Ws 389.19;

(14) Submit a source classification statement in accordance with Env-Ws 389.14;

(15) Submit a copy of the well completion report prepared in accordance with We 800 to demonstrate that the construction of the wellhead complies with We 600; and

(16) Obtain written department approval of the site as a new groundwater source of bottled drinking water in accordance with Env-Ws 389.20.

(b) Approval by the department shall be contingent on compliance with notification requirements pursuant to RSA 485-C:21, and rules regarding impact assessment and mitigation requirements adopted pursuant to RSA 485:3, XIII.

(c) Source approval shall lapse 5 years after issuance if the source has not started producing bottled water.

Source. #6973, eff 4-5-99

Env-Ws 389.05 Wellhead Location.

(a) The wellhead of a new groundwater source of bottled drinking water shall be at least 50 feet from surface waters except, in the case of springs, where the applicant demonstrates that surface water generated from the spring does not recharge the Source.

(b) The wellhead of a new groundwater source of bottled drinking water shall not be subject to flooding at the 100-year recurrence interval. The applicant may fill to elevate a wellhead and pumping station for flood protection purposes, provided that all required permits for placing of fill within wetlands and flood plains have been obtained. However, where spring water is collected with the use of an external force, no filling of the spring's natural orifice shall be allowed.

(c) A description of the 100-year flood elevation, the flood plain location, and the nearest surface waters shall be provided in the report prepared in accordance with Env-Ws 389.19 as documentation that the source location meets the criteria of Env-Ws 389.04.

Source. #6973, eff 4-5-99

Env-Ws 389.06 Sanitary Protective Area.

(a) The purpose of the sanitary protective area is to provide an area in the immediate vicinity of

the source within which there is minimal risk of groundwater contamination.

(b) The sanitary protective area shall be a circle, centered on the wellhead, with a radius based upon the permitted production volume as set forth in Table 389-1 below:

Table 389-1 Sanitary Protective Area Radii

Permitted Production Volume (gallons)	Radius (feet)
0 - 14,400	150
14,401 - 28,800	175
28,801 - 57,600	200
57,601 - 86,400	250
86,401 - 115,200	300
115,201 - 144,000	350
greater than 144,000	400

(c) Where more than one well is inside a sanitary protective area, then the individual sanitary protective area for these wells shall be based on the combined permitted production volume unless it is clearly demonstrated that the sources are not hydraulically interconnected.

(d) The sanitary protective area may be reduced in size or changed in shape if it is clearly demonstrated that there is no hydraulic connection between the source and that portion of the sanitary protective area excluded in the reduction. However, the sanitary protective area shall never be less than 75 feet from the source in any direction.

(e) The supplier of water shall own all the land within the sanitary protective area or otherwise control it by legal means. When the supplier's control of the sanitary protective area is time limited the department's approval of the source shall be equally time limited.

(f) The sanitary protective area shall be maintained in a natural state except for structures and activities necessary for the maintenance of the Source.

(g) No underground utilities or structures shall be installed within the sanitary protective area except for potable water and electrical or communication conduits. In specific cases where this requirement imposes unreasonable constraints on construction, other installations shall be allowed if construction methods and materials are used which are consistent with the purpose of the sanitary protective area.

(h) A description of land use activities, existing and proposed, and documentation of legal control, shall be provided in the report required in accordance with Env-Ws 389.19.

Source. #6973, eff 4-5-99

Env-Ws 389.07 Conceptual Hydrogeologic Model.

(a) A conceptual hydrogeologic model of the source, the source water protection area, and potential impacts shall be developed by a person who by education and experience in hydrogeology is able to quantitatively analyze and reliably interpret hydrogeology.

(b) The conceptual model shall:

(1) Identify the sources of information used;

(2) Explain the interpretations made; and

(3) Include the following:

a. A description of the geology and geologic history of the area;

b. Generalized geologic cross-sections through the aquifer based on available information such as well logs, geologic reports, maps, and subsurface data;

c. A map of the conceptual potentiometric surface in the vicinity of the proposed source based on available data, which shall show hydraulic contours and flow directions in both horizontal and vertical planes, under average, ambient, non-pumping conditions for the aquifer being considered and its recharge areas; and

d. A description of the aquifer flow, hydraulic boundaries, recharge conditions and the interaction of the source with surrounding water resources.

(c) The conceptual model shall be refined based on the results of the source evaluation performed in accordance with Env-Ws 389.11. The refined conceptual model shall be presented in the report prepared in accordance with Env-Ws 389.19.

Source. #6973, eff 4-5-99

Env-Ws 389.08 Preliminary Estimate of the Wellhead Protection Area.

(a) A preliminary estimate of the wellhead protection area shall be developed by a person who by education and experience in hydrogeology is able to quantitatively analyze and reliably interpret hydrogeology based on the conceptual hydrogeologic model developed in accordance with Env-Ws 389.07.

(b) The preliminary estimate of the wellhead protection area shall be a circle with a 4000 foot radius centered on the source if preliminary data is not adequate to construct a regional conceptual potentiometric surface map or otherwise identify the recharge areas for the Source.

(c) The preliminary estimate of the wellhead protection area shall be refined in accordance with Env-Ws 389.15 based on the results of the source evaluation program performed in accordance with Env-Ws 389.11.

Source. #6973, eff 4-5-99

Env-Ws 389.09 Preliminary Contamination Source and Water Withdrawal Inventory.

(a) A preliminary inventory of the wellhead protection area shall be completed before the source

evaluation required in accordance with Env-Ws 389.11 is conducted.

(b) The inventory shall include:

(1) Known and potential contamination sources;

(2) Public water supplies;

(3) Water withdrawals registered in accordance with Env-Ws 700; and

(4) Private wells within 1000 feet.

(c) The inventory shall be compiled from a search of the following information sources:

(1) Records at the department;

(2) Records at the municipality; and

(3) A windshield survey of all properties within the source water protection area.

(d) For each known contamination source, the description shall include:

(1) The site name and street address;

(2) Property owner's or operator's name, address, and telephone number; and

(3) The nature, extent and investigation and remedial action status of the contamination based on the information search conducted in accordance with (c), above.

(e) For each potential contamination source, the description shall include:

(1) The site name and street address;

(2) Property owner's or operator's name, address, and telephone number; and

(3) The type of facility as defined in RSA 485-C:7.

(f) For each registered water withdrawal, the description shall include:

(1) The site name and street address;

(2) Property owner's or operator's name, address, and telephone number; and

(3) The purpose for and quantity of water withdrawn based on the information search conducted in accordance with (c), above.

(g) For each private well, the description shall include:

(1) The site address and property use; and

(2) Property owner's name, address, and telephone number.

(h) If an area is not served by municipal water, it shall be assumed that all developed lots have private wells and a door to door survey shall not be required.

(i) A map showing the location of all items identified in accordance with (b), above, shall be presented in the report required in accordance with Env-Ws 389.19. The map shall include the preliminary estimate of the source water protection area and shall have as its base, the original or clear color copy of a United States Geological Survey topographic quadrangle map at a scale of 1:24,000 or 1:25,000.

(j) The descriptions required in accordance with (d) through (g), above, shall be presented in the report required by Env-Ws 389.19 and shall identify each information source and search dates.

Source. #6973, eff 4-5-99

Env-Ws 389.10 Optional Pre-Test Conference.

(a) Department staff responsible for implementing these rules, when requested in writing, shall meet with the applicant and the person who by education and experience in hydrogeology is able to quantitatively analyze and reliably interpret hydrogeology to review a detailed proposal of the work to be performed in accordance with these rules.

(b) Requests for a pre-test conference shall:

(1) Be submitted in writing; and

(2) Include the following:

a. A sketch at a scale of approximately one inch equals 100 feet depicting the area and any land uses within 500 feet of the proposed source, and a description of how the site complies with the source location requirements in Env-Ws 389.05;

b. A description of the conceptual hydrogeologic model developed in accordance with Env-Ws 389.07;

c. A description of the preliminary estimate of the wellhead protection area delineated in accordance with Env-Ws 389.08;

d. The preliminary contamination source and water withdrawal inventory completed in accordance with Env-Ws 389.09; and

e. A description of the source evaluation program, wellhead protection area delineation methodology, and contamination control program to be conducted as required by Env-Ws 389.04.

(c) During the conference, department staff shall provide feedback on the acceptability of the site and proposed approaches under these rules within the limitations of what is known about the site at the time of the conference.

Source. #6973, eff 4-5-99

Env-Ws 389.11 Source Evaluation Program. A source evaluation shall be conducted for all new

groundwater sources of bottled drinking water as follows:

(a) A source evaluation program shall be designed and performed by a person who by education and experience in hydrogeology is able to quantitatively analyze and reliably interpret hydrogeology for all new sources.

(b) The objectives of the source evaluation shall be to:

(1) Gather the information needed to refine the conceptual hydrogeologic model;

(2) Refine the wellhead protection area delineation;

(3) Establish the chemical quality of the source; and

(4) Develop, if necessary, a contamination control program.

(c) For all wellheads where external force will be used to collect water, the source evaluation shall be conducted in accordance with the pumping test requirements for large community water system wells specified in Env-Ws 378.09 or successor rules, except as altered by the following:

(1) For a spring or artesian water, the following shall apply:

a. The source evaluation shall address both the natural high and low flow conditions of the source;

b. Low flow conditions shall be evaluated by conducting the source evaluation during a low flow period; and

c. Low flow conditions may be predicted using hydrogeologically valid methods provided that a monitoring program is designed and implemented to evaluate predictions and ensure no significant adverse impacts occur;

(2) For spring sources where a borehole will be used to collect water, the source evaluation shall be expanded to include the measurement of flows from the spring's natural orifice, at least as often as water levels are measured in the borehole, after the first ten minutes of pumping and of recovery; and

(3) Water quality sampling shall be conducted as follows:

a. One sample shall be taken just before the pumping test stops;

b. The sample shall be analyzed by a state certified lab using EPA approved drinking water methods;

c. The sample shall be analyzed for those contaminants required to be monitored in ground water systems in accordance with Env-Ws 310-319; and

d. Additional samples shall be collected and analyses performed if necessary to establish a contamination control program in accordance with Env-Ws 389.15.

(d) For all wellheads, where no pumping or other external force will be used to collect water, the

source evaluation shall be conducted as follows:

(1) The source evaluation shall address both the natural high and low flow conditions of the source;

(2) Two monitoring wells shall be required and placed to meet the objectives of the source evaluation program. Additional monitoring wells shall be required when preliminary information indicates they are necessary to meet the objectives of the source evaluation program in accordance with Env-Ws 389.10(b);

(3) The evaluation shall be conducted for 10 continuous days as follows:

a. The first 3 days antecedent monitoring shall be conducted with no withdrawal of water from the source;

b. From the beginning of day 4 through the end of day 8, water shall be withdrawn from the source at the desired permitted production volume;

c. From the beginning of day 9 to the end of day 10, recovery monitoring shall be conducted with no withdrawal from the source;

(4) Water collected during the evaluation must be discharged at a location which ensures the water cannot provide recharge to the source;

(5) Flow collected from the source shall be measured at least twice daily at intervals of approximately 12 hours, using a calibrated flow meter, weir, flume, or similar device. It shall be measured over a period of one minute or less;

(6) Water levels in the source and in the monitoring wells shall be measured twice daily, concurrently with flow rate measurements;

(7) If the source ceases to flow, the time that flow ceases and the time it starts again shall be recorded. Measurement of water levels shall replace flow measurements any time a source ceases to flow;

(8) Weather conditions, including rainfall amounts at the site shall be recorded throughout the evaluation;

(9) Surface water levels within 500 feet of the source shall be measured to the nearest 0.01 foot and recorded at least twice daily, concurrent with discharge measurements, during the evaluation;

(10) The horizontal distance between each observation well, surface water measurement location, and the source shall be measured to the nearest foot;

(11) The vertical elevation of the observation wells, surface water, and the source, shall be established to the nearest 0.01 foot and referenced to the National Geodetic Vertical Datum of 1929 or subsequent national datum;

(12) Water level and flow data shall be tabulated and plotted;

(13) A regional groundwater flow net shall be constructed which shows flow directions in the horizontal and vertical planes and indicates hydraulic boundaries and recharge sources;

(14) Data collected pursuant to (1) through (13), above shall be used to refine the wellhead protection area at the desired permitted production volume for 180 continuous days without recharge from rainfall; and

(15) Water quality sampling shall be as follows:

a. A water quality sample shall be taken within the first 2 hours of the evaluation;

b. A second water quality sample shall be taken at the mid point of the evaluation;

c. A third water quality sample shall be taken during the last day of the evaluation;

d. The samples shall be analyzed by a state certified lab using EPA approved drinking water methods;

e. The samples collected pursuant to a. and b., above, shall be analyzed for volatile organic compounds, iron, manganese, pH, specific conductance, hardness, chlorides, sodium, nitrates, radon, and coliform bacteria;

f. The sample collected pursuant to c., above shall be analyzed for those contaminants required to be monitored in accordance with Env-Ws 310 through 319; and

g. Additional samples shall be collected and analyses performed if necessary to establish a contamination control program in accordance with Env-Ws 389.15.

(e) Alternative source evaluation programs shall be accepted, provided it is demonstrated that the alternative addresses the source evaluation objectives of (b), above, and achieves equivalent or superior results.

(f) Source evaluation methods, procedures, data, laboratory reports, and other supporting documentation shall be presented and results evaluated in the report required in accordance with Env-Ws 389.19.

Source. #6973, eff 4-5-99

Env-Ws 389.12 Permitted Production Volume.

(a) A permitted production volume shall be established by the applicant through an analysis of data derived from the source evaluation required in accordance with Env-Ws 389.11. This volume shall represent the withdrawal for which the wellhead protection area is delineated and, if necessary, the contaminant control program is developed.

(b) The permitted production volume shall be calculated by the applicant by applying the natural flow rate or pumping test production rate over 24 continuous hours of operation. Although the actual rate at which water is withdrawn from an approved source may vary, the permitted

production volume shall not be exceeded.

Source. #6973, eff 4-5-99

Env-Ws 389.13 Source Classification.

(a) A source may be classified as artesian water if the water is from a well tapping a confined aquifer in which the water level stands at some height above the top of the aquifer. Artesian water may be collected with the assistance of external force to enhance natural underground pressure.

(b) A source may be classified as spring water if it is derived from an underground formation from which water flows naturally to the surface of the earth. Spring water shall be collected only at the spring or through a borehole tapping the underground formation feeding the spring. There shall be a natural force causing the water to flow to the surface through a natural orifice. The location of the spring shall be identified. Spring water collected with the use of an external force shall be from the same underground stratum as the spring, as shown by a measurable hydraulic connection using a hydrogeologically valid method between the bore hole and the natural spring, and shall have all the physical properties, before treatment, and be of the same composition and quality, as the water that flows naturally to the surface of the earth. If spring water is collected with the use of an external force, water shall continue to flow naturally to the surface of the earth through the spring's natural orifice.

(c) A source shall be classified as well water if it fails to meet the criteria for artesian or spring water in accordance with (a) and (b), above.

Source. #6973, eff 4-5-99

Env-Ws 389.14 Source Classification Statement.

(a) A person who by education and experience in hydrogeology is able to quantitatively analyze and interpret hydrogeology shall prepare a source classification statement that designates the source as being either artesian water, spring water, or well water.

(b) The classification statement shall include the following:

(1) A statement that the person, who by education and experience in hydrogeology is able to quantitatively analyze and interpret hydrogeology, understands the definitions of artesian water, well water, and spring water contained in Env-Ws 389.02;

(2) A statement that a sufficient hydrogeologic investigation has occurred and that documentation has been prepared to demonstrate that the source meets the requirements for classification contained in Env-Ws 389.13;

(3) A statement that the documentation that supports the classification has been provided to the owner of the source; and

(4) The name, signature, title, and qualifications of the person determining the classification.

(c) The owner of the source shall keep all information regarding source classification provided by the person signing the classification statement, and shall produce this information and demonstrate, on request, to department representatives, that the source meets the classification specified in the source classification statement.

(d) The source classification statement shall be submitted to the department separately from the report required in accordance with Env-Ws 389.19.

Source. #6973, eff 4-5-99

Env-Ws 389.15 Wellhead Protection Area Delineation.

(a) The wellhead protection area shall be delineated for new groundwater sources of bottled drinking water at the permitted production volume in accordance with wellhead protection area delineation methodology for new large community water system sources in accordance with Env-Ws 378 or successor rules.

(b) The preliminary estimate of the wellhead protection area completed in accordance with Env-Ws 389.08 shall be refined with respect to no-flow boundaries, surface water connections, existing withdrawals, and any other hydrogeologic influences.

(c) The delineation and supporting evaluations and documentation shall be presented in the report required in accordance with Env-Ws 389.19.

Source. #6973, eff 4-5-99

Env-Ws 389.16 Contamination Source and Water Withdrawal Inventory Update and Revision.

(a) The preliminary inventory completed in accordance with Env-Ws 389.08 shall be updated if it is more than 90 days old.

(b) The preliminary inventory shall be revised to reflect any expansion or decrease in the wellhead protection area after it is refined in accordance with Env-Ws 389.15.

(c) The updated and revised inventory shall be presented in the report required in accordance with Env-Ws 389.19.

Source. #6973, eff 4-5-99

Env-Ws 389.17 Contamination Control Program.

(a) The applicant shall establish a contamination control program which minimizes the risk of contamination from known sources of contamination.

(b) The program shall include provisions and a schedule for remediation and/or monitoring of residual contamination from all known contamination sources, identified in accordance with Env-Ws 389.16, which ensures that contamination shall not reach the groundwater source of bottled water.

(c) Compliance of a known contamination source with the conditions of a groundwater management permit in accordance with Env-Ws 410 or successor rules, shall constitute an

adequate control program.

(d) A description of the contamination control program and supporting evaluations and documentation shall be provided in the report required in accordance with Env-Ws 389.19.

Source. #6973, eff 4-5-99

Env-Ws 389.18 Construction Design. The construction of the wellhead shall comply with We 600, Standards for the Construction, Maintenance and Abandonment of Wells. A well completion report prepared in accordance with We 800 shall be submitted along with the report required in accordance with Env-Ws 389.19.

Source. #6973, eff 4-5-99

Env-Ws 389.19 Report. A report of all the information and materials required in accordance with Env-Ws 389.05 through Env-Ws 389.18 shall be submitted to the department.

Source. #6973, eff 4-5-99

Env-Ws 389.20 Criteria for Approval or Denial of New Sources.

(a) Notwithstanding Env-Ws 389.20 (b) and (c) below, upon determining that the report required in accordance with Env-Ws 389.19 contains all the required information, that it is correct and complete, and that all specified requirements of Env-Ws 389 and We 600 have been met, the department shall approve the source and notify the applicant and the department of health and human services that the source has been approved.

(b) If the report is deficient in any of the criteria in Env-Ws 389.19, the applicant shall be notified in writing.

(c) The proposed source shall be denied under the following conditions:

(1) If an inadequately controlled contamination source is present in the source water protection area; or

(2) If the applicant has failed to perform any activity or to meet any of the requirements contained in these rules.

(d) For withdrawals with a permitted production volume of 57,600 gallons or greater, approval by the department shall be contingent on compliance with notification and impact assessment and mitigation requirements pursuant to RSA 485-C:4, XII and Env-Ws 388.

Source. #6973, eff 4-5-99

Env-Ws 389.21 Increasing the Permitted Production Volume. Withdrawal from a groundwater source of bottled drinking water shall not exceed the permitted production volume determined in accordance with Env-Ws 389.12. Any request for increasing the permitted production volume shall require the submission of the same information necessary for approval of a new Source.

Source. #6973, eff 4-5-99

Env-Ws 389.22 Sampling Requirements for New and Existing Sources.

(a) The supplier of water from new groundwater sources of bottled drinking water shall:

(1) Submit a written request for a chemical monitoring program schedule to the department within one week of the start of operation of a new well approved in accordance with Env-Ws 389; and

(2) Conduct routine chemical monitoring of water quality in accordance with the sampling and reporting requirements for non-transient, non-community sources in accordance with Env-Ws 320 through 330.

(b) The supplier of water from existing bottled drinking water sources sited prior to the effective date of these rules shall conduct routine chemical monitoring of water quality in accordance with the sampling and reporting requirements for non-transient, non-community sources in accordance with Env-Ws 320 through 330.

Source. #6973, eff 4-5-99

Env-Ws 389.23 Waivers.

(a) The rules contained in this part are intended to apply to a variety of conditions and circumstances. It is recognized that strict compliance with all rules prescribed herein might not fit every conceivable situation. Suppliers of bottled drinking water may request a waiver of specific rules outlined in this part in accordance with paragraph (b) below.

(b) All requests for waivers shall:

(1) Be submitted in writing to the department; and

(2) Include the following information:

a. A description of the site to which the waiver request relates;

b. A specific reference to the section of the rule for which a waiver is being sought;

c. A full explanation of why a waiver is necessary and demonstration of hardship caused if the rule is adhered to;

d. A full explanation of the alternatives for which a waiver is sought with backup data for support; and

e. A full explanation of how the alternatives for which a waiver is sought are consistent with the intent of RSA 485:8 and RSA 485:48, would have a just result, and would adequately protect human health and the environment.

(c) The department shall approve a request for a waiver if it finds that the alternatives proposed are at least equivalent to the requirements contained in this part, and are adequate to ensure that the provisions of RSA 485:8, and RSA 485:48 are met.

(d) The department shall not grant any waiver which in its judgement contravenes the intent of any rule.

(e) The department shall issue a written response to a request for a waiver. If the waiver is denied, the denial shall specifically set forth the reason(s) for the denial.

Source. #6973, eff 4-5-99